

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA**

\*

\*

**CRIM. NO. 12-cr-00090-KD**

\*

**v.**

\*

**ZERRICK CHARLES ROBINSON**

\*

**NOTIFICATION TO THE COURT OF THE UNITED STATES’  
WITHDRAWAL OF AN ARGUMENT**

Comes now the United States of America, by and through Richard W. Moore, the United States Attorney for the Southern District of Alabama, and files this notification to the Court that the United States is voluntarily withdrawing its argument that kidnapping, as defined in 18 U.S.C. § 1201(a)(1), can constitute a crime of violence under the elements clause of 18 U.S.C. § 924(c)(3)(A). *See* [Doc. No. 179, pp. 10–14]

On August 2, 2019, the United States filed its response in opposition to petitioner Zerrick Robinson’s supplemental successive Section 2255 motion. [Doc. No. 179] Therein, the United States put forth two arguments: (1) Robinson’s *Davis* claim should be construed as another successive § 2255 claim, and (2) the federal kidnapping statute is a crime of violence under 18 U.S.C. § 924(c)(3)(A). [*Id.*, pp. 7–8] The United States highlighted for the Court that its second argument may be affected by subsequent Department of Justice guidance concerning *United States v. Davis*, 139 S. Ct. 2319 (2019). [*Id.*, p. 8 n.2]

After the United States filed its response, specific guidance has been issued concerning the federal kidnapping statute post-*Davis*. In light of this guidance, the United States is hereby withdrawing its argument that the federal kidnapping statute is a crime of violence under 18 U.S.C. § 924(c)(3)(A) despite the fact that the offenses in this particular case involved extreme violence.

Accordingly, the United States hereby informs the Court that it only intends to go forward on its first argument; *i.e.*, the procedural issue of whether Robinson's supplemental successive § 2255 petition should be construed as another successive §2255 motion.

Respectfully submitted this 28th day of August, 2019.

RICHARD W. MOORE  
UNITED STATES ATTORNEY  
By:

/s/ Scott A. Gray  
Scott A. Gray (grays6387)  
Assistant United States Attorney  
63 South Royal Street, Suite 600  
Mobile, Alabama 36602  
Telephone: (251) 441-5845  
Fax: (251) 441-5131  
scott.gray@usdoj.gov